

To: Zinner, Dania[Zinner.Dania@epa.gov]; Guy, Kerry[Guy.Kerry@epa.gov]
From: Sisk, Richard
Sent: Thur 6/25/2015 10:46:21 PM
Subject: FW: Draft Final versions of the Settlement Agreement and Action Memo
Draft Final VBI70 OU2 AOC for removal 06-22-15 clean_jrb edits.docx
MontclairCreek Disturbed Area rev.pdf

Dania and Kerry – Look at the potential map of the Site and let me know if you are okay with it.

Thanks

Richard Sisk
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From: Brody, Jessica R - City Attorney Office [mailto:Jessica.Brody@denvergov.org]
Sent: Thursday, June 25, 2015 3:04 PM
To: Sisk, Richard; Jennifer Robbins (Jennifer.Robbins@state.co.us)
Subject: RE: Draft Final versions of the Settlement Agreement and Action Memo

Dear Richard,

Attached, please find two documents: (1) a markup of the AOC showing a few final edits, for your consideration, and (2) the map of the site (Exhibit B).

On the AOC, most of the changes are non-substantive, clean-up edits. There is one substantive change we are requesting in Paragraph 51 (Force Majeure) from “best efforts” to “reasonable efforts.” As you know, we are undertaking this project in cooperation with CDOT, and we are somewhat at CDOT’s mercy with regard to the schedule. In particular, if there are significant delays in CDOT’s NEPA process or FHWA approval for I-70, such delays could potentially impact the timing of our work under the AOC.

I am available this afternoon and sporadically tomorrow if you would like to discuss any of the proposed edits and/or the exhibit.

Regarding the record, I checked with DEH, and we are not aware of any documents that should be in the record that EPA does not already have. Regarding ARARs, I am guessing the state will have views regarding standards for discharge of water that we pump during construction. One issue that CDPHE has raised is distinguishing between discharge requirements for river water vs. groundwater pumped during construction. With respect to river water, our view is that we should be allowed to pump it back to the river without treatment, whereas we would treat groundwater prior to discharge. Other ARARS that I think are applicable are those concerning management and disposal of the Waste Material. We plan to follow all federal and state laws that would be applicable to solid waste (and hazardous, if we encounter any). If there are specific ARARs that you would like to discuss, again, I would be happy to have that conversation with you (and CDPHE, if they want to participate).

Thank you again for your assistance,

Jessica

From: Sisk, Richard [<mailto:Sisk.Richard@epa.gov>]
Sent: Tuesday, June 23, 2015 11:19 AM
To: Brody, Jessica R - City Attorney Office; Jennifer Robbins (Jennifer.Robbins@state.co.us)
Subject: Draft Final versions of the Settlement Agreement and Action Memo

Jessica and Jennifer – Attached are what I am calling draft final versions of these two documents. I have gotten the thumbs up from my immediate supervisor that these are good to

go for signature. I have attached two versions of the settlement agreement, a redline and a clean copy. The redline shows all of Jessica's last edits and then my additional edits. In regards to the action memo, EPA needs to assemble an administrative record for the decision, so if you know of any documents that you think should be in the AR that EPA does not already have, please let me know. EPA also needs to develop a list of ARARs for the removal, so any suggests would be helpful. Fonda has already sent a list of ARARs generally for OU2 and OU3 to Dania. That list is probably a bit too large for this specific removal.

Thanks

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